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September 26, 2002

**VIA ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Notice of Ex Parte Presentations in CC Docket Nos. 96-45, 98-171, 90-571, 92-237,  
99-200, 95-116, 98-170, and NSD File No. L-00-72.

Dear Ms. Dortch:

On September 25, 2002, F.J. Pollak (CEO of TracFone Wireless, Inc. ("TracFone")), Richard Salzman (General Counsel of TracFone), Nancy Boocker and I, on behalf of TracFone met with Matthew Brill in the Office of Commissioner Abernathy.

During this meeting, we discussed TracFone's opposition to a connection-based universal service contribution methodology, as well as the legal and policy reasons for TracFone's opposition that have already been explained in TracFone's comments and reply comments in this proceeding. Recognizing that the Commission may adopt a connection-based methodology despite TracFone's legal and policy objections and those of other parties, TracFone also presented a proposal for treatment of prepaid wireless carriers under a connection-based approach. Under TracFone's proposal, the Commission would recognize unique aspects of the prepaid wireless industry and impose a monthly charge of \$.18 for each prepaid wireless handset that has interstate use during that month. TracFone's proposal and rationale are discussed more fully in the attached talking points that were used at our meeting. A copy of that paper is included herewith and should become part of the record of this proceeding.

During the course of our meeting TracFone was asked to explain how it could determine which customers had interstate usage each month. TracFone explained that as a reseller it receives bills from underlying carriers that categorize certain calls as interstate, based on the location of the initial cell site associated with the wireless handset during that call. TracFone representatives recognized that this methodology may not be accurate for every situation (*e.g.*, those relatively few cell sites which transmit across state boundaries). However, it is the methodology used by wireless carriers in billing TracFone and is probably accurate for the vast majority of wireless calls. TracFone also explained that most wireless service providers' invoices to end users contain call detail which indicate the originating location of calls (based on originating cell site) as well as the terminating locations, further corroborating the fact that wireless providers can identify and differentiate interstate and intrastate calls.

TracFone also wishes to correct one fact that is contained in TracFone's pleadings in this proceeding, as well as the attached talking points. TracFone has said that its current average universal service contribution is approximately \$.17 per active handset per month. These initial calculations were based on the application of the wireless "safe harbor" of 15 percent interstate traffic. As TracFone explained during the meeting, its actual interstate traffic is approximately 10 percent of its total traffic. Using the actual numbers, TracFone has recalculated its average universal service contribution as approximately \$.12 per active handset per month.

Pursuant to Section 1.1206(b) of the Commission's Rules, this notice is being filed electronically in the above-captioned dockets. If you have any questions regarding this matter, please feel free to contact undersigned counsel for TracFone Wireless.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell F. Brecher", with a stylized, flowing script.

Mitchell F. Brecher

Attachment

cc: Mr. Matthew Brill

# **TRACFONE WIRELESS, INC. PROPOSAL FOR UNIVERSAL SERVICE FUND CONTRIBUTION REFORM FOR PREPAID WIRELESS MARKET SEGMENT**

**CC Docket No. 96-45**

**September 2002**

TracFone opposes a connection-based contribution methodology because it would be inconsistent with the Communications Act. In addition to being unlawful, application of such a methodology to prepaid wireless providers would unduly harm those providers and their customers, and impair their ability to offer competitive services. If the Commission is to adopt a connection-based contribution methodology, then TracFone recommends that a separate charge be established for prepaid wireless carriers offering interstate service which recognizes the unique circumstances of the prepaid wireless market, similar to the COSUS proposal for paging carriers.

## **❑ TracFone's History and Current Management.**

- Began offering service in 1996.
- Affiliate of America Movil.
- Industry experience of corporate officers.

## **❑ Unique Aspects of TracFone Service.**

- Nationwide prepaid service (including offshore points) provided through resale of digital and analog services of numerous wireless providers.
- Specially designed handsets track customer usage rather than network-based usage tracking (this feature provides real time information regarding remaining time to consumers).
- Handsets and prepaid wireless airtime cards sold at tens of thousands of retail outlets and available from company website.
- Customer initiates service by purchasing a TracFone handset and then calling TracFone's 800 number to activate service. Prepaid wireless airtime cards are also activated by calling TracFone's 800 number.
- Price structure – one unit per minute for local and long distance in home area and two units per minute when roaming.

## **❑ TracFone's Customer Base.**

- Over 1.8 million customers.
- Pay-as-you-go; no contracts, credit checks, monthly fees, activation fees, or age limits.
- Appeals to people who otherwise could not qualify for traditional wireless service, particularly low income users.
- Appeals to low-volume users, who often purchase phone for safety reasons.

- Appeals to people who do not want to or cannot commit to long-term service contracts with stiff early termination penalties.
- ❑ **Why COSUS Connection Charge Would Be Inappropriate for Prepaid Wireless Market Segment.**
  - No practical way to pass through to customers a connection-based charge because there is no monthly bill and no switch-based database to deduct charge on monthly basis.
  - \$1 monthly connection charge will represent a very large increase in USF contributions for average TracFone customer – much larger than Commission estimated in the Notice of Proposed Rulemaking. Currently, TracFone’s average per-handset contribution is approximately \$.17 per month.
- ❑ **Connection-Based Contribution Methodology Will Impair Tracfone’s Ability To Compete and Will Harm Consumers Who Rely on Tracfone’s Services.**
  - Since TracFone cannot pass through the increased USF connection charge as a surcharge, it must either absorb the increased charge or increase its usage rates.
  - It would be neither equitable nor nondiscriminatory for TracFone to be subject to large USF contribution charge increases, while competing wireline long distance carriers, particularly those offering prepaid services in competition with TracFone, would be relieved of any obligation to contribute to USF despite the fact that those carriers, like TracFone, provide interstate service.
  - TracFone’s low-income (16% earn below \$25K per year) and low-volume (75% of customers have less than 5 minutes of interstate usage per month) users will face disproportionately significant increases in their rates. These customers may not have affordable alternatives for either wireline or wireless services.
  - TracFone’s low-income users may not receive Lifeline subsidies (since FCC rules prohibit Lifeline support for services provided through resale) and therefore would not receive an exemption from USF contributions that would apply to Lifeline recipients who are customers of other carriers, yet those customers would be forced to pay more to support universal service for others (the “double whammy” problem).
- ❑ **TracFone Proposal.**
  - If the Commission adopts a connection-based methodology, create a separate connection-based charge for prepaid wireless carriers, like that proposed for paging carriers, instead of treating them as identical to postpaid wireless carriers.
  - That charge should not exceed \$0.18 per month on every TracFone handset used for making or receiving interstate calls during that month. Because providers of prepaid wireless services, like TracFone, cannot pass through any additional

- charge as a customer surcharge, recovery of the charge either would be included in the provider's rates or would be absorbed by the provider.
- Prepaid wireless carriers would pay the connection-based charge only for handsets that have had interstate usage in that particular month.

❑ **Rationale for TracFone Proposal.**

- Like paging carriers, prepaid wireless providers derive relatively little revenue from interstate service – well below the levels enjoyed by traditional postpaid wireless carriers. TracFone's percentage of interstate revenues are below the current 15 percent safe harbor.
- The average revenue per unit (ARPU) is significantly lower for prepaid wireless carriers than for traditional CMRS providers indicating the prevalence of low-income and low-volume users. According to a CTIA study cited by the FCC, the ARPU for wireless carriers in December of 2001 was \$47.37. TracFone's ARPUs are approximately \$30 for digital handsets and \$14.75 for analog handsets. TracFone's overall ARPU is about \$17.00 -- far below the industry average.
- Prepaid wireless carriers like TracFone cannot add a customer surcharge for USF contributions like their postpaid counterparts.
- \$0.18 per month per customer is comparable with what TracFone pays today (about \$0.17 per phone per month) under the revenue-based system, and is significantly above the amounts that the paging industry has stated would be appropriate for it.
- Actual interstate usage in a month is an essential condition precedent to assessment of a USF connection charge on prepaid wireless carriers since imposition of a universal service assessment based only on intrastate (local) service would violate Section 254.

❑ **Tracfone's Implementation Concerns and Need For a Transition Period If There Are Any Significant Changes in Contribution Methodology and Level of Assessment.**

- It takes time to print and distribute new cards.
- Existing already purchased cards must be honored.
- Would adversely affect TracFone distributors.